

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of M. A. ANDERSEN, Minor.

UNPUBLISHED  
October 15, 2013

No. 315799  
Cass Circuit Court  
Family Division  
LC No. 12-000015-NA

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Before: MURRAY, P.J., and DONOFRIO and BORRELLO, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) (conditions of adjudication continue to exist), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood of harm if child is returned to parent's home). Because clear and convincing evidence supported the statutory bases for termination, petitioner made reasonable efforts to reunite respondent with the child, and termination of respondent's parental rights was in the child's best interests, we affirm.

The trial court did not clearly err by finding that clear and convincing evidence established the statutory bases for termination. See *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The child was removed from respondent's care after respondent left the child with respondent's mother, i.e., the child's maternal grandmother, who was unable to care for the child and who had previously had her parental rights to respondent terminated. Respondent's mother did not know where respondent was and was unable to reach her. Respondent admitted that she had recently become homeless and was unable to care for the child at that time. The evidence showed that respondent has an intellectual cognitive impairment<sup>1</sup> and that, even after treatment with a psychologist, she did not understand that her actions caused the child to be removed from her care. Respondent blamed her mother for the child's removal and believed that her mother had misled Child Protective Services. Respondent admitted that she had considered leaving the child with the Department of Human Services (DHS) instead of with her mother because she was so overwhelmed. Respondent did not understand why leaving the child with DHS might result in the child being placed in foster care.

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<sup>1</sup> Respondent's "IQ" is within the "mild mentally retarded range."

Respondent's barriers to reunification included her emotional stability, parenting skills, domestic relationships, housing, employment, cognitive ability, and resource management and availability. Petitioner provided respondent several services, including individual therapy, a psychological evaluation, supervised parenting time with a parenting time specialist, individual parenting counseling at respondent's residence, transportation assistance, housing assistance, assistance applying for social security benefits, and services regarding employment and budgeting. Despite those services, respondent failed to overcome her barriers to reunification. Respondent did not interact appropriately with the child during visits, and the child often assumed the role of parent and initiated contact with respondent. At times during the lower court proceedings, respondent became enraged and yelled and screamed at caseworkers. She accused caseworkers of kidnapping the child, provided deadlines for the child's return, and insisted that she would not allow the child to be adopted. During a parenting counseling session, respondent told the counselor, "I brought [the child] into this world [and] I can take her out." When asked what respondent meant by that statement, respondent replied that "she would kill her daughter then herself." Thereafter, respondent's visitation was suspended to ensure the child's safety and mental health, and respondent's individual parenting counseling sessions were terminated. Respondent had missed 6 of 12 parenting time sessions before they were suspended.

Respondent also engaged in unstable relationships with men. She had an "on again off again" relationship with the child's putative father, who had recently been released from prison. She also became involved with other men who she met on the Internet, including "Daniel." Respondent failed to appear at a hearing regarding suspension of her visitation because she was driving Daniel to work. She arrived at the courthouse after the hearing had concluded. She was angry, crying, and yelled at the case manager, who had to deescalate the situation. Respondent and Daniel became engaged after dating for only a few months. Although respondent told the foster care case manager that she had discovered that Daniel had a felony record and that she was no longer together with him because he was not supportive of her, the case manager overheard a telephone conversation during which respondent's landlord told respondent that Daniel could move into respondent's residence with her. When asked why respondent would want to live with Daniel if they were no longer together, respondent replied that she had lost her rent assistance and that her rent would soon increase to more than \$500 a month. Another man, "Joe," had offered to kidnap the child for respondent. Although respondent maintained that she was afraid of Joe and did not want him to kidnap the child, respondent continued to respond to his text messages and accept his calls. At the termination hearing, respondent testified that she believed that petitioner wanted her to get married and have another child in order to regain custody of the child at issue in this case.

Further, respondent did not consistently take her medication for depression. Although she reported some improvement while on the medication, she discontinued taking it because she claimed that it made her nauseous. Respondent's health care provider believed that that was unlikely because respondent had taken the medication for two months without experiencing any side effects. Although respondent argues that she should have been provided more time to complete services because of her cognitive impairment, the record demonstrates that respondent made very little, if any, progress during the lower court proceedings and may have even regressed. Nothing indicates that additional time to complete services would have resulted in a different outcome. Thus, the trial court did not clearly err by finding that the statutory grounds for termination were proven by clear and convincing evidence.

Respondent next argues that the trial court failed to make reasonable efforts to reunite her with the child. Specifically, she argues that she should have been offered services to help her develop a social support system, address her cognitive disabilities, and help her feel comfortable during visitation with the child. Because respondent did not preserve this issue for our review by challenging the nature and extent of services offered in the trial court, our review is limited to plain error affecting her substantial rights. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008).

The record demonstrates that services were offered, and assistance provided, in all of the areas that respondent now challenges. Respondent fails to specifically identify the additional services that she claims should have been provided to assist her in developing a social support system or addressing her cognitive deficiencies. The record indicates that respondent's primary social support appeared to be from her psychologist, who petitioner provided to respondent. Moreover, respondent's services involved one-on-one instruction to ensure that she received individual attention in light of her cognitive deficits. Regarding visitation, the parenting time specialist primarily observed respondent's interactions with the child from outside the room, and the additional security measures that were implemented during respondent's visitation were the result of respondent's threatening behavior. Further, although respondent claims that additional services should have been provided, she did not attend all of the services offered to her. "While the DHS has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012). The record shows that respondent was provided extensive services and fails to indicate that she was denied services that were available to other parents with cognitive disabilities. See *In re Terry*, 240 Mich App 14, 27; 610 NW2d 563 (2000). If a parent cannot demonstrate that she can meet her basic parental responsibilities, the child's needs must prevail over those of the parent. *Id.* at 28. Accordingly, no plain error occurred.

Further, respondent challenges the trial court's determination that termination of her parental rights was in the child's best interests. Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court shall order termination of parental rights if it finds that termination is in the child's best interests. MCL 712A.19b(5); *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). In determining a child's best interests, the trial court may consider the child's need for stability and permanency and whether the child is progressing in foster care. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011). The record reveals that when the child was removed from respondent's care, she was developmentally delayed, made animal sounds instead of talking, spoke in a made-up language, had limited social skills, played by herself, often acted like an animal, and had nightmares every night. During her time in foster care, the child progressed significantly. She developed social skills, participated in activities, spoke in full sentences, and was age appropriate, or even advanced, in her development. Moreover, she was very attached to her foster mother and foster family, who appropriately cared for her. Under these circumstances, the trial court did not err by

concluding that termination of respondent's parental rights was in the child's best interest.

Affirmed.

/s/ Christopher M. Murray  
/s/ Pat M. Donofrio  
/s/ Stephen L. Borrello